

REMARKS

I. Status of Claims

Applicant replies to the Office Action dated September 6, 2006 within the shortened statutory period for reply. Applicant amends claims 16, 27, and 44 and adds claims 47 and 48. Claims 16-40, 44, and 47-48 are now pending in the application. Support for the amendments may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by these amendments and new claims. Reconsideration is respectfully requested.

II. Telephonic Interview

Applicant thanks the Examiner for his time and consideration during the telephonic interview with Applicant's representatives, Damon Ashcraft and Howard Sobelman on November 20, 2006. During that interview, Mr. Sobelman and Mr. Ashcraft pointed out to the Examiner that the outside walls disclosed in U.S. Patent No. 6,810,925 to Graham et al. ("Graham") bowed outward, yet the inside of the wall is still vertical, so the inside wall is not wider at the opening. The Examiner suggested amending the claims to more succinctly recite that the walls of the hydrogen handling system are emanating from the floor and angle away from the floor upwards at an angle greater than ninety degrees to overcome the anticipation rejections based on Graham. As suggested by the Examiner, Applicant amends independent claim 16 in conformance with the interview discussions.

Further, Mr. Sobelman and Mr. Ashcraft pointed out that U.S. Patent No. 6,786,245 to Eichelberger et al. ("Eichelberger") and U.S. Patent No. 6,755,225 to Niedwiecki et al. ("Niedwiecki") failed to disclose, teach, or suggest a system that was affixed to the ground for handling hydrogen or handling a flammable substance. Both Eichelberger and Niedwiecki disclose mobile fueling stations comprising hydrogen tanks oriented horizontally on a truck or other vehicle that is driven around to deliver hydrogen to other hydrogen consuming vehicles. Mobile fueling stations as disclosed by Eichelberger and Niedwiecki are substantially different from a stationary system built on and attached to the ground. For example, mobile refueling systems are regulated by the National Transportation and Safety Board and not regulated by local building codes or the American Society of Mechanical Engineers as are stationary systems like the one of the present invention. Simply put, mobile fueling stations (like the ones disclosed by Eichelberger and Niedwiecki) are dangerous because they are prone to traffic accidents and less-

stringent codes. Mr. Sobelman and Mr. Ashcraft argued that a hydrogen handling system affixed to the ground would not be obvious in light of Eichelberger or Niedwiecki due to the different safety requirements and uses of stationary systems.

The Examiner agreed that claims directed towards such a stationary system that was affixed to the ground would not be obvious in light of Eichelberger and Niedwiecki. As suggested by the Examiner, Applicant amends claims 27 and 44 to recite a system that is affixed to the ground.

III. Claims Rejected Under 35 U.S.C. §102(e)

The Examiner rejects claims 16, 17, 20-23, 25 and 26 under 35 U.S.C. § 102(e) as being anticipated by Graham. Applicant respectfully traverses this rejection. As discussed above, Applicant asserts that Graham fails to disclose a hydrogen handling system with an open top with an area larger than a floor. Nevertheless, to advance this application to allowance, Applicant amends claim 16.

A. Independent Claim 16

Amended claim 16 now recites “a system for handling hydrogen, said system comprising hydrogen handling equipment, said equipment including piping, said equipment being at least partially contained within a structure, said structure having an enclosure, a floor, a plurality of walls emanating from said floor, and an open top defined by said plurality of walls, wherein said plurality of walls emanates from said floor at an angle greater than ninety degrees and said open top has a larger area than an area of said floor.”

As discussed in the telephonic interview, Graham does not disclose a system with a “plurality of walls emanating from said floor at an angle greater than ninety degrees and said open top has a larger area than an area of said floor.” Thus, Applicant respectfully requests that the Section 102(e) rejection of claim 16 be withdrawn.

Claims 17-26 depend from claim 16, and contain all of the elements thereof, so Applicant asserts that claims 17-26 are differentiated from the cited reference for at least the same reasons as set forth above, in addition to their own respective features. Thus, Applicant respectfully requests allowance of claims 17-26.

B. Independent Claims 27 and 44

The Examiner rejects claims 27, 29, 31, 34, 38 and 44 under 35 U.S.C. § 102(e) as being anticipated by Eichelberger. Applicant respectfully traverses this rejection.

Applicant asserts that Eichelberger does not disclose or suggest at least a system “built on a ground surface” or a system “with a substantially sealed enclosure affixed to the ground.” Thus, Applicant respectfully requests that the Section 102(e) rejection of claims 27 and 44 be withdrawn.

Claims 29, 31, 34, and 38 depend from claim 27, and contain all of the elements thereof, so Applicant asserts that claims 29, 31, 34, and 38 are differentiated from the cited references for at least the same reasons as set forth above, in addition to their own respective features. Thus, Applicant respectfully requests allowance of claims 29, 31, 34, and 38.

IV. Claims Rejected Under 35 U.S.C. § 103(a)

A. Dependent Claims 18, 19, and 24

The Examiner rejects claims 18, 19, and 24 under 35 U.S.C. §103(a) as being obvious when Graham is viewed with U.S. Patent No. 6,612,269 to Heffell, et al. (“Heffell”). Applicant respectfully traverses this rejection. To render a claim obvious, the references must teach or suggest all the claimed limitations. *MPEP §2142*.

Claims 18, 19, and 24 depend from amended claim 16 which includes limitations of “plurality of walls emanating from said floor said floor at an angle greater than ninety degrees and said open top has a larger area than an area of said floor.” As discussed above, these features are not taught nor suggested by Graham and Heffell also fails to teach or suggest these features as claimed by Applicant. Therefore, neither Graham, Heffell, nor any combination thereof teach or suggest all the claim limitations of claims 18, 19, and 24 and do not render these claims obvious. Thus, Applicant respectfully requests that the Section 103(a) rejection be withdrawn.

B. Claims 27, 29-31, 34-37, 39, 40 and 44

The Examiner rejects claims 27, 29-31, 34-37, 39, 40 and 44 under 35 U.S.C. § 103(a) as being obvious when Niedwiecki is viewed with Eichelberger. Applicant respectfully traverses

this rejection. The Examiner argues that the elements not disclosed by Niedwiecki are either disclosed by Eichelberger or would be an obvious matter of design choice and as such, the invention as claimed in claims 27, 29-31, 34-37, 39, 40 and 44 would be obvious to one of ordinary skill in the art.

Claims 27 and 44 have been amended to include the elements of a system that is “built on a ground surface” and a system “with a substantially sealed enclosure affixed to the ground.” As noted in the telephonic interview, neither Niedwiecki, Eichelberger, nor any combination thereof, disclose or suggest such a system and therefore do not teach or suggest all the claimed limitations as required by MPEP §2142. It would not be obvious to modify either Niedwiecki nor Eichelberger to arrive at such a system given the above-noted safety advantages. Thus, Applicant respectfully requests that the Section 103(a) rejection of claims 27 and 44 be withdrawn.

Claims 29-31, 34-37, 39, 40 and 44 depend from claim 27, and contain all of the elements thereof, so Applicant asserts that claims 29-31, 34-37, 39, 40 and 44 are differentiated from the cited references for at least the same reasons as set forth above, in addition to their own respective features. Thus, Applicant respectfully requests allowance of claims 29, 31, 34, 35, 39, and 40.

C. Claims 32 and 33

The Examiner rejects claims 32 and 33 under 35 U.S.C. § 103(a) as being obvious when Eichelberger is viewed with Heffell. Applicant respectfully traverses this rejection. The Examiner argues that Eichelberger discloses the invention as claimed in claims 32 and 33 except that Eichelberger fails to disclose the feature of dispensing a mixture of hydrogen and natural gas. The Examiner then asserts that Heffell discloses such a feature and that the invention as claimed in claims 32 and 33 would be obvious to one of ordinary skill in the art.

Claims 32 and 33 depend from amended claim 27 which includes limitations of a system that is “built on a ground surface” and a system “with a substantially sealed enclosure affixed to the ground.” As discussed above, these features are not taught nor suggested by Eichelberger. Moreover, Heffell also fails to teach or suggest these features as claimed by Applicant. Therefore, neither Eichelberger, Heffell, nor any combination thereof, teach or suggest all the claim limitations of claims 32 and 33 and do not render these claims obvious. Thus, Applicant respectfully requests allowance of claims 32 and 33.

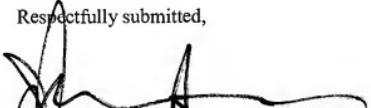
Finally, the Examiner rejects claims 32 and 33 under 35 U.S.C. § 103(a) as being obvious when Niedwiecki is viewed with Heffell. Applicant respectfully traverses this rejection. The Examiner argues that Niedwiecki discloses the invention as claimed in claims 32 and 33 except that Niedwiecki fails to disclose the feature of dispensing a mixture of hydrogen and natural gas. The Examiner then asserts that Heffell discloses such a feature and that the invention as claimed in claims 32 and 33 would be obvious to one of ordinary skill in the art.

Claims 32 and 33 depend from amended claim 27 which includes limitations of a system that is "built on a ground surface" and a system "with a substantially sealed enclosure affixed to the ground." As discussed above, these features are not taught nor suggested by Niedwiecki. Moreover, Heffell also fails to teach or suggest these features as claimed by Applicant. Therefore, neither Niedwiecki, Heffell, nor any combination thereof, teach or suggest all the claim limitations of claims 32 and 33 and do not render these claims obvious. Thus, Applicant respectfully requests allowance of claims 32 and 33.

CONCLUSION

In view of the above remarks and amendments, Applicant respectfully submits that all pending claims properly set forth that which Applicant regards as his invention and are allowable over the cited references. Accordingly, Applicant respectfully requests allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject application. Applicant authorizes and respectfully requests that any fees due be charged to Deposit Account No. 19-2814.

Respectfully submitted,



J. Simon Ashcraft
Reg. No. 51,024

Dated: November 21, 2006

SNELL & WILMER L.L.P.
400 E. Van Buren
One Arizona Center
Phoenix, Arizona 85004
Phone: 602-382-6389
Fax: 602-382-6070
Email: dashcraft@swlaw.com